



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 33 of the Housing (Scotland) Act 1988 (Act).

Chamber Ref: FTS/HPC/EV/19/1968

Re: Property at 18a Main Street, The Corner House, Aberlady, EH32 0RB (“the Property”)

Parties:

Mr Jon Bruneau, Mr Neil Johnson, Pomona 2, Duke Street, Belhaven, Dunbar, EH42 1NT (“the Applicant”)

Mr Jason Lowsley, Mrs Fiona Lowsley, 18a Main Street, The Corner House, Aberlady, EH32 0RB (“the Respondents”)

Tribunal Members:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.

Background

This is an application for eviction and recovery of possession under section 33 of the Act and Rule 66 of the Tribunal Procedure Rules following termination of a Short Assured Tenancy (SAT).

The Tribunal had regard to the following documents:

- 1. Application received 25 June 2019;**
- 2. SAT dated 16 and 20 June 2016;**
- 3. AT5 dated 16 June 2016;**
- 4. Section 33 Notice dated 8 February 2019;**
- 5. Notice to Quit dated 8 February 2019;**
- 6. Proof of Receipt of Notice to Quit and Section 33 Notice by Royal mail;**

7. Section 11 Notice to Local Authority;
8. Letter from East Lothian Council to Respondents dated 6 August 2019;
9. Certificates of Service of CMD Notification dated 18 July 2019.

Case Management Discussion (CMD)

The case called for a CMD on 27 August 2019. The Applicant was not present but was represented by a solicitor. The First Named Respondent appeared.

The Tribunal ascertained from the First Named Respondent that the Respondents had been allocated a Council House. He produced a letter of 6 August 2019 from the Council to that effect. He informed the Tribunal that they should be able to move in to the Council House in a period of 2 – 6 weeks. They were not contesting the application.

The Applicant sought the order for eviction and recovery of possession to be granted at this stage.

The Tribunal was satisfied that it had sufficient information to make a Decision at this stage and the procedure was fair.

The Tribunal considered the documentary evidence before it and made the following findings in fact:

1. The Parties entered in to an SAT dated 16 and 20 June 2016;
2. The SAT had been validly terminated as at 16 June 2019;
3. Section 33 Notice and Notice to Quit had been validly served on the Respondents;
4. Tacit relocation was no longer operating in respect of the SAT;
5. The Respondents had been offered a tenancy of Council House.

The Tribunal considered the terms of section 33 of the Act. The SAT had been validly terminated and tacit relocation was no longer operating. The Tribunal had sufficient information upon which to determine the matter at this stage and was satisfied that the procedure had been fair.

The Tribunal granted the order for eviction and recovery of possession as sought.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Alan Strain

Legal Member/Chair

27 August 2019

Date